

Office of the Attorney General
Washington, D. C.

OL C75,2615
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October 9, 1975

Honorable W. E. Colby
Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Colby:

I appreciate your letter of September 26, 1975, calling my attention to the need for representation in the John Doe case, and expressing your concern that the 200 present and former employees of the agency who may be called before the Senate Select Committee should be properly represented. I share your concerns and have initiated procedures to provide representation wherever possible for your present and past employees in the John Doe litigation as well as in interviews and testimony before the House and Senate Select Committees on Intelligence.

Unfortunately, the request for representation cannot be approved on a blanket basis. Each individual case requires a separate determination by the Civil Division as to whether representation can be provided and if so, whether it should take the form of a Justice Department attorney or a private attorney retained at Justice Department expense. Enclosed is a letter from Assistant Attorney General Rex E. Lee to your General Counsel which indicates how those procedures can be activated. It is my understanding that requests from your agency for representation are now being processed on a regular basis.

Your inquiry concerning representation of present and former employees in interviews conducted by F.B.I. or Department of Justice officials investigating possible violations

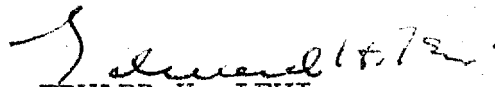
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of federal law raises special problems. Unlike the civil suit, and congressional committee situations, providing representation even by outside counsel in this context places the Department in the untenable position of financing both sides of a criminal investigation. In addition, the presence of a potential criminal penalty arising directly from the facts developed in the interview make it especially important that there be absolutely no suggestion by appearance or otherwise that the employee's counsel is caught between divided loyalties. Finally, as you can imagine, thousands of government employees are interviewed each year for possible involvement in violations of federal law so that providing private representation would place an immense practical burden on the Department's resources.

The Civil Division has never provided either private or Justice Department counsel for F.B.I. or Department of Justice interviews of government employees. The continuing validity of the reasons supporting this practice require me to refuse to provide representation for past or present employees of the CIA in interviews by either the Department of Justice or the F.B.I. in their investigations of possible violations of federal law.

Sincerely,


EDWARD H. LEVI
Attorney General

Enclosure



Department of Justice
Washington, D.C. 20530

ASSISTANT ATTORNEY GENERAL
CIVIL DIVISION

September 26, 1975

Mr. John S. Warner
General Counsel
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Warner:

The Department of Justice is now in the process of developing guidelines for the representation of present and former government employees. Pending completion of those guidelines, we have established interim procedures for the expeditious processing of requests for representation in either civil litigation or for appearances before Congressional committees.

All requests for such representation should be made directly to my Special Assistant, Thomas Martin (739-3333). Tom will initiate procedures designed to determine whether counsel can be provided, whether that counsel will be a Justice Department or private attorney, and lastly who that attorney will be. Since these procedures may take as long as 48 hours, it is of the utmost importance that Tom be contacted as soon as the need for representation becomes apparent.

It is my hope that the procedures we have established will insure quick and systematic decisions concerning the representation of your present and former employees.

Sincerely,

REX E. LEE
Assistant Attorney General



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EXECUTIVE SECRETARIAT
Routing Slip

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Remarks:

Executive Secretary

10 October 1975

Date

